IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1057 (S/B) 2001
(Old No. 4044/1991)

Syed Mohd. Saleem and
Another ……..... Petitioners

Versus

Board of Revenue, U.P.
Lucknow …… Respondents.

Mr. B. C. Pande, Advocate for the Petitioners.
M.r K.P. Upadhayaya for the State of Uttaranchal.
Mr. B.S. Verma, S.C. for the State of U.P.

Coram: Hon. S.H. Kapadia, C.J.
Hon. Rajesh Tandon, J.

Dated: 09.09.2003:

PC:

This matter has come from Allahabad High Court. The original writ petition was filed in 1991.

FACTS

In November,1984, the petitioner was given two leases for thirty years subject to renewal upto 90 years. They constructed the shops with the permission of the Prescribed Authority, obtained on 17.1.1985. Without giving opportunity, Tahsildar Kichha, Nainital, communicated decision of the Board of Revenue to terminate the lease. Therefore, the present writ petition has been filed.

We find merit in this petition. Firstly in this case rules of natural justice have been violated. No hearing was ever given to the petitioners by the Board of Revenue. Secondly, it appears from the counter that the lese is terminated on the grounds of fraud. The Board has not instituted any Civil suit in that regard. No provision of law has been shown to us that the Board of Revenue is empowered to terminate the lese on the ground of fraud. Taking into account both the above circumstances, the writ petition is allowed in terms of prayer clause (i).

This order will not preclude the Chief Revenue Commissioner, Uttaranchal from acting in accordance with law (including regularization if possible).

Subject to above, writ petition is disposed of.

(Rajesh Tandon, J.) **(S.H.Kapadia, C.J.)**

AK.